

Message Text

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PAGE 01 DURBAN 00495 262112Z
ACTION AF-10

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FM AMCONSUL DURBAN
TO SECSTATE WASHDC 2624
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AMCONSUL CAPE TOWN
AMCONSUL JOHANNESBURG
AMEMBASSY MBABANE
AMEMBASSY MAPUTO

UNCLAS DURBAN 0495

EO 11652: NA
TAGS: PINT, SHUM, SF
SUBJ: STIFF SENTENCES ANNOUNCED IN PIETERMARITZBURG ANC TRIAL

REF: DURBAN 475

1. FIVE OF THE NINE CONVICTED DEFENDANTS IN THE PIETERMARITZBURG ANC TRIAL WERE GIVEN LIFE SENTENCES BY JUSTICE HOWARD ON JULY 25. THE OTHER FOUR WERE GIVEN SENTENCES RANGING FROM SEVEN TO 18 YEARS. IN PASSING SENTENCE JUSTICE HOWARD SAID HE TOOK INTO ACCOUNT PRIOR CONVICTIONS FOR SIMILAR OFFENSES (SABOTAGE, AND RECRUITMENT OF BLACKS FOR MILITARY TRAINING ABROAD) OF THE FIVE DEFENDANTS GIVEN LIFE SENTENCES, TERMING THESE DEDICATED REVOLUTIONARIES WHO "ALTHOUGH THEY SERVED THEIR PREVIOUS SENTENCES IN FULL WERE NOT DETERRED FROM PARTICIPATING IN TERRORIST ACTIVITIES WITHIN A COMPARATIVELY SHORT TIME AFTER THEIR RELEASE. THERE APPEARS TO BE LITTLE OR NO PROSPECT OF REFORMATION IN THEIR CASES, AND THE INTERESTS OF SOCIETY REQUIRE THAT THEY SHOULD BE REMOVED FROM THE SCENE PERMANENTLY." THE JUDGE STATED THAT ONLY LIFE IMPRISONMENT OR EXECUTION WOULD MEET THESE REQUIREMENTS AND HE

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PAGE 02 DURBAN 00495 262112Z

WAS PERSUADED BY "CONSIDERATIONS OF MERCY" TO CHOOSE LIFE IMPRISONMENT. THOSE GIVEN LIFE SENTENCES ARE THEMBA GWALA (55) ANTON XABA (42), JOHN NENE (32), MATTHEWS MEYIWA (51) AND ZAKHELE MDLALOSE (51). VUSIMUSI MAGUBANE (32) RECEIVED 15 YEARS; AZENIA NDEBELE (40) RECEIVED SEVEN YEARS; JOSEPH NDULI (35) RECEIVED SENTENCES OF 15 AND 10 YEARS ON TWO COUNTS BUT SEVEN YEARS OF THE SECOND COUNT ARE TO RUN CONCURRENTLY WITH

THE FIRST FOR MAXIMUM SENTENCE OF 18 YEARS; CLEOPAS NDHLOVU RECEIVED SENTENCES OF 10 YEARS EACH ON TWO COUNTS WITH FIVE YEARS OF THE SECOND COUNT TO RUN CONCURRENTLY WITH THE FIRST FOR A TOTAL OF 15 YEARS.

2. BEFORE SENTENCE WAS PASSED DEFENDANTS WERE PERMITTED TO ADDRESS THE COURT. ACCORDING TO PRESS REPORTS THEY EXPRESSED THEIR DISCONTENT WITH THE NATIONAL GOVERNMENT AND THE POLICY OF OPPRESSION AND RACIAL DISCRIMINATION. NONE OF THE DEFENDANTS EXPRESSED ANY REMORSE OR INDICATED INTENTION TO REFORM. AFTER SENTENCING DEFENDANTS GAVE THE BLACK POWER SALUTES AND SANG, ALONG WITH SOME OF THE SPECTATORS, NKOSI SIKELELE IAFRIKA. TRIAL HAS NOW BEEN ADJOURNED UNTIL JULY 28 WHEN DEFENSE WILL PRESENT ARGUMENTS ON GROUNDS OF APPEAL. (THE RIGHT TO APPEAL IS NOT AUTOMATIC IN SOUTH AFRICAN COURT CASES AND MUST BE GRANTED BY THE TRIAL JUDGE HIMSELF.)

3. SENTENCES WERE MORE SEVERE THAN DEFENSE ATTORNEYS HAD HOPED (REFTEL) BUT, AS ONE ATTORNEY TOLD CONGEN OFFICER BEFORE HEARINGS ON THE SENTENCES COMMENCED, THE POLITICAL NATURE OF THE OFFENSE COUPLED WITH THE DEDICATION AND LACK OF REMORSE ON THE PART OF THE DEFENDANTS AND THE PRIOR CONVICTIONS OF FIVE OF THEM FOR SIMILAR OFFENSES, MADE IT POSSIBLE THAT THE JUDGE WOULD CHOOSE TO IMPOSE A PENALTY AS HARSH AS LIFE IMPRISONMENT.FARBER

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